

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DERRICK D. FONTROY, I

Plaintiff,

v.

M. PAULA TOSKI, et al.,

Defendants.

Civil Action No. 06-230 Erie

MEMORANDUM ORDER

_____ Plaintiff's civil rights complaint was received by the Clerk of Court on October 5, 2006 and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. By Order dated April 2, 2008, this case was consolidated with a substantially similar civil action originally filed in the Johnstown Division of this District, *Fontroy v. Vincent*, No. 3:07-cv-220, with this case surviving as the lead case.

The Chief Magistrate Judge's Report and Recommendation [74], filed on May 19, 2009, recommends that Plaintiff's remaining claim challenging the Pennsylvania Department of Corrections' mail policy be dismissed based on the doctrine of *res judicata*, and that the case be closed. The parties were allowed ten (10) days from the date of service in which to file objections. Service was made on Plaintiff by certified mail at the SCI Laurel Highlands where he is incarcerated, and on the Defendants. No objections were filed. After de novo review of the complaint and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 15th day of June, 2009;

IT IS ORDERED that Plaintiff's remaining claim challenging the Pennsylvania Department of Corrections' mail policy be, and hereby is, DISMISSED based on the doctrine of *res judicata* and the case be marked CLOSED.

The Report and Recommendation of Chief Magistrate Judge Baxter,
dated May 19, 2009 [74], is adopted as the opinion of this Court.

s/ SEAN J. McLAUGHLIN
Sean J. McLaughlin
United States District Judge

cc: all parties of record
Chief U.S. Magistrate Judge Baxter